

**BOULT  
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CONNERS  
& BERRY** PLC

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October 17, 2000

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EXECUTIVE SECRETARY

David Waddell  
Executive Secretary  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243-0505

**In Re: Complaint of Discount Communications against BellSouth  
Telecommunications  
Docket No. 00-00230**

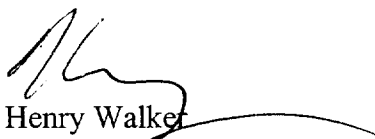
Dear David:

Please find enclosed the original and thirteen copies of Discount Communications, Inc.'s Request to Continue Escrow Account Pending Decision on the Petition to Reconsider. Copies have been forwarded to parties.

Sincerely,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By:

  
Henry Walker

HW/nl  
Attachment

POSTED  
10/18/00

BEFORE THE TENNESSEE REGULATORY AUTHORITY  
Nashville, Tennessee

IN RE: COMPLAINT OF DISCOUNT           )  
COMMUNICATIONS, INC.                    )   Docket No. 00-00230  
AGAINST BELLSOUTH                        )  
TELECOMMUNICATIONS, INC.            )

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**REQUEST TO CONTINUE ESCROW ACCOUNT PENDING  
DECISION ON PETITION TO RECONSIDER**

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Discount Communications, Inc. (“Discount”) asks the Tennessee Regulatory Authority (“TRA”) to direct the parties to continue their escrow account arrangement until the Authority rules on the Petition to Reconsider filed by Discount on October 13, 2000.

Discount has raised important issues in the Petition to Reconsider which were not addressed in the agency’s Order released September 28, 2000. Until these issues are fully and finally addressed by the Authority, the parties should take no action which might result in the disruption of service to Discount’s customers. Continuation of the escrow account will give the Authority time to consider Discount’s arguments while preserving the status quo.

**Discussion**

On March 11, 2000, Discount filed a complaint against BellSouth Telecommunications, Inc. (“BellSouth”) alleging that BellSouth was overcharging Discount for service and that

BellSouth had illegally discontinued Discount's access to the LENS system, making it effectively impossible for Discount to continue operating. In the complaint, Discount's asked that the LENS system be restored immediately pending resolution of Discount's overcharge claims.

The TRA considered Discount's request at a regularly scheduled TRA conference on March 28, 2000. Following argument, the parties agreed on a compromise plan under which BellSouth agreed to restore access to the LENS system pending a decision by the Authority on Discount's complaint. In exchange, Discount agreed to pay \$1500 per day into an escrow account until the TRA issued a final decision on Discount's overcharge complaint . On April 5, 2000, the parties agreed that the law firm of Boulton, Cummings, Conners & Berry, PLC, would hold the escrow account.

Pursuant to that agreement, Discount has made — and continues to make --- daily payments into the account. On Sept. 28, 2000, the TRA issued a final order on Discount's complaint. The following day, Boulton, Cummings delivered a check to BellSouth for \$252,000. A second check in the amount of \$13,500 was delivered on October 6, 2000.<sup>1</sup>

Discount has recently filed a Petition to Reconsider the September 28 Order. The petition points out that the Authority reached its conclusion, in part, based on a factual error regarding the language of the parties' interconnection agreement. Discount also directs the Authority's attention to uncontradicted evidence in the record which, Discount submits, demonstrates that the agency's decision is anti-competitive and discriminates against resellers in

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<sup>1</sup> The first check included all checks that had cleared at that time. The second check included all remaining payments through the date of the final Order.

violation of federal law. As explained in the Petition, the agency's actions in this case may well determine not only whether Discount Communications can stay in business but whether any reseller of "Lifeline" telephone service can fairly compete against an incumbent carrier. Because of the significance of this ruling, Discount asks that it not be forced to pay any disputed charges until after the TRA has ruled on the Petition to Reconsider. In the meantime, Discount will continue to make daily payments of \$1500, or such other amount as the Authority may determine, into the escrow account.<sup>2</sup>

The reasons for continuing the current escrow arrangement are as strong now as they were when this matter was first presented to the TRA. Discount is providing Lifeline telephone service to customers who, for financial reasons, are unable to obtain service from any other carrier, including BellSouth. Discount is apparently the only company in the state (and perhaps the nation) providing this service. The issues raised in Discount's complaint are both novel and important and will determine how the Lifeline assistance program will be administered in Tennessee. Until all the parties' arguments have been heard and these issues finally resolved, BellSouth should not be able to collect any charges that could later be found unlawful or inconsistent with the parties' interconnection agreement. More importantly, allowing BellSouth to collect these potentially improper charges could jeopardize Discount's ability to continue

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<sup>2</sup> The \$1,500 per day figure was a compromise amount which BellSouth estimated would cover the non-disputed portion of Discount's bill on a going forward basis. To the extent the average, non-disputed portion of Discount's bill has increased or decreased since April, Discount does not object to adjusting the escrow amount accordingly.

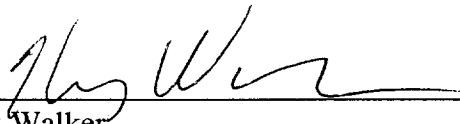
providing service and, worse, result in the disconnection of Discount's Lifeline customers who have no other means of obtaining service.

**Conclusion**

For these reasons, Discount asks that the TRA direct the parties to continue the current escrow account, or a similar version of that arrangement, pending a decision on the Petition to Reconsider.

Respectfully submitted,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

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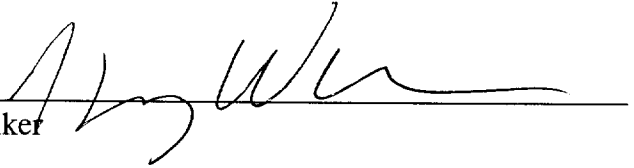
## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been forwarded via U. S. First Class Mail, facsimile, and/or hand delivery, to the following on this the 17<sup>th</sup> day of October, 2000.

Patrick Turner, Esq.  
BellSouth Telecommunications, Inc.  
333 Commerce St. ,  
Nashville, TN 37201-3300

Vance Broemel, Esq.  
Consumer Advocate Division  
Tennessee Attorney General's Office  
425 5<sup>th</sup> Avenue North, Cordell Hull Bldg.  
Nashville, TN 37243-0500

Henry Walker

A handwritten signature in black ink, appearing to read 'H. Walker', is written over a horizontal line.